HIGH COURT OF CHHATTISGARH AT BILASPUR

SINGLE BENCH: HON'BLE SHRI H.L. DATTU, CJ.

Writ Petition No.1719 of 2001

PETITIONER Smt. Hemkumari Sharma age 70 years, Wd/o late Shri Dani Ram Sharma, retired Head Master R/o village Adbhar, near Sakti, Dist- Champa- Janjgir (Chhattisgarh)

Versus

RESPONDENTS

1. State of Chhattisgarh through Collector, Bilaspur (Chhattisgarh)
2. Chief Secretary, Tribal Welfare Department, Bhopal (M.P.)
3. Commissioner Bilaspur Division, Bilaspur (C.G.)
4. Deputy Commissioner Tribal Welfare, Bilaspur, (Chhattisgarh)
5. Principal Government (T.W.D.) H.S. Umreli, Dist – Bilaspur (C.G.)

Writ Petition under Article 226/227 of the Constitution of India.

Present: Smt Mala Dubey, counsel for the petitioner.

Shri AS Kachhawaha, Government Advocate for the State / respondents.

ORAL ORDER
(Passed on 26th April, 2007)

Husband of the petitioner was working as Head Master in a Government School. He joined the service on 16.07.1958. After attaining the age of superannuation, he retired some time in the year 1991. Immediately after his retirement from the service, the State Government has settled the terminal benefits payable to him. The husband of the petitioner was receiving all these benefits without even a murmur. He died on 15.05.1997 leaving behind the petitioner and others. For the first time, the petitioner has approached this Court in the year 2001 *inter alia* requesting this Court to direct the respondents in this writ petition for payment of un-paid salary and difference in the pension amount.

(2) Learned counsel for the petitioner would submit that during the life time of husband of the petitioner, he was making representations for payment of difference in salary for the period 01.10.1981 to 13.04.1982 and 03.04.1984 to 12.08.1988. Further it is stated that even after his death, the petitioner continued to make representations before the respondents for payment of difference in pension amount, as also un-paid salary, and therefore, it is stated by the petitioner that there is no delay in approaching this Court.

(3) Per contra, learned counsel for the State would submit that if for any reason, the husband of the petitioner had any grievance with regard to non-payment of salary for the aforesaid period and also difference in pension amount, he should have approached this Court within a reasonable time and since that has not been done, the discretionary relief of this Court should not be extended.

(4) The dates which I have mentioned earlier are not in dispute. The husband of the petitioner retired from service on attaining the age of superannuation sometime in the year 1991, and immediately all the terminal benefits had been settled by the State Government and he was receiving all these benefits. He died only on 15.05.1997. Even if it is assumed that the husband of the petitioner was making representations, it does not cure the delay and laches on his part in approaching this Court.

(5) For the first time the petitioner is before this Court nearly after four years from the date of death of her husband. There is no explanation, much less a reasonable explanation, in approaching this Court belatedly. The discretionary relief of this Court can not be extended to a person who had slept over his right. In that view of the matter, without going into other details of the case, only on the ground of delay and laches on the part of the petitioner in approaching this Court, in my considered opinion, this petition requires to be rejected. Accordingly, the writ petition is rejected.

Sd/-
Chief Justice